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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,621	12/30/2003	Frank L. Neely	VTN 568CIP1	7509
27777	7590	01/02/2008	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			HUYNH, CARLIC K	
			ART UNIT	PAPER NUMBER
			1617	
			MAIL DATE	DELIVERY MODE
			01/02/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10748621	12/30/2003	NEELY ET AL.	VTN 568CIP1

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EXAMINER

Carlic K. Huynh

ART UNIT	PAPER
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1617

20071210

DATE MAILED:

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Commissioner for Patents

ckh

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DETAILED ACTION

1. The reply filed on October 23, 2007 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Election of species. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Status of the Claims

2. Claims 1-30 are pending in the application, with claims 22-27 and 30 having been withdrawn, in response to the restriction requirement submitted on September 21, 2007. Accordingly, claims 1-21 and 28-29 are being examined on the merits herein.

Election/Restrictions

3. Applicants' election of Group I, claims 1-21 and 28-29, drawn to a method of producing an antimicrobial lens comprising silver and a polymer formed from a mixture comprising a ligand monomer of Formula I in the reply filed on October 23, 2007 is acknowledged. Because Applicants did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

However, Applicants have not elected the following patentably distinct species:

- (1) a single disclosed species of a lens; and
- (2) a single disclosed species of a monomer of Formula I.

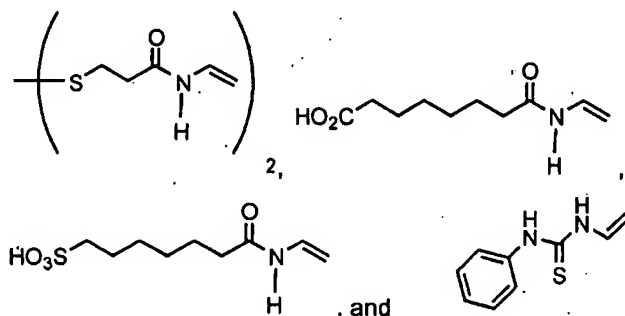
Art Unit: 1617

as required under 35 U.S.C. 121.

As written in the Requirement for Restriction/Election, submitted on September 21, 2007, Applicant is reminded that if either Group I, II or III is elected, the applicant is required under 35 U.S.C. 121 to elect (1) a single disclosed species of a lens, and (2) a single disclosed species of a monomer of Formula I for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-30 are generic.

It is noted that the species of lenses are structurally distinct and the search for each lens would represent an undue burden on the Office. The lens may be selected from, for example, silicone hydrogel, etafilcon A, balafilcon A, aquafilcon A, lenefilcon A, alyfilcon, senofilcon, or lotrafilcon A.

It is also noted that the species of monomers of Formula I are structurally distinct and the search for each monomer of Formula I would represent an undue burden on the Office. The monomer of Formula I may be selected from, for example:



Since Applicants have not complied with 35 U.S.C. 121 in an election of species, a Notice of Non-Compliant Amendment (37 CFR 1.121) has been issued.

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Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlic K. Huynh whose telephone number is 571-272-5574. The examiner can normally be reached on Monday to Friday, 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ckh


SHENGJUN WANG
PRIMARY EXAMINER